

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CITY OF MAPLE HEIGHTS, OHIO,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

NETFLIX, INC., and HULU, LLC,

Defendants.

Case No. 1:20-CV-01872

Hon. James S. Gwin

Magistrate Judge Thomas M. Parker

**PLAINTIFF CITY OF MAPLE HEIGHTS, OHIO’S
MOTION FOR CLASS CERTIFICATION AND APPOINTMENT
OF CLASS REPRESENTATIVE AND CLASS COUNSEL**

Plaintiff City of Maple Heights, Ohio (“Plaintiff”), hereby moves the Court, pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure, for an Order certifying a class defined as:

All Ohio municipalities in which one or more of the Defendants has provided video service (the “Class”).

(Compl., ECF No. 1 at ¶ 24) and appointing Plaintiff as Class Representative. Plaintiff also moves, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, for the appointment of DiCello Levitt Gutzler LLC; Nix Patterson, LLP; and Schneider Wallace Cottrell Konecky, LLP, as Class Counsel.

In support of its motion, Plaintiff submits its contemporaneously-filed Memorandum of Law, which demonstrates that (1) the proposed Class is so numerous that joinder of all class members is impracticable; (2) there are questions of law or fact common to the Class; (3) Plaintiff’s claims are typical of the other Class members’ claims; (4) Plaintiff and its counsel will fairly and adequately protect the interests of the proposed Class; (5) Defendants Netflix, Inc. and Hulu, LLC

have acted or refused to act on grounds that apply generally to the class, so that declaratory relief is appropriate with respect to the Class as a whole; (6) the questions of law or fact common to the members of the propose Class predominate over any questions affecting only individual Class members; and (7) class treatment is superior to other available methods for fairly and efficiently adjudicating the controversy. In further support of its motion, Plaintiff also submits the expert reports of David J. Malfara, Sr. and David Simon, filed contemporaneously herewith.

WHEREFORE, Plaintiff respectfully requests that the Court issue an Order certifying the proposed Class pursuant to Rules 23(b)(2) and/or 23(b)(3) of the Federal Rules of Civil Procedure, appointing the City of Maple Heights, Ohio as Class Representative, and appointing DiCello Levitt Gutzler LLC; Nix Patterson, LLP; and Schneider Wallace Cottrell Konecky, LLP, as Class Counsel, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

Dated: April 19, 2021

Respectfully submitted,

/s/ Justin J. Hawal

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***Counsel for Plaintiff and the Proposed
Class***

* *Pro Hac Vice* applications to be filed

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically using the Court's CM/ECF service, which will send notification of such filing to all counsel of record on this 19th day of April 2021.

/s/ Justin J. Hawal

Justin J. Hawal

DICELLO LEVITT GUTZLER LLC